

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

Case # 18-CR-6161-FPG

DECISION AND ORDER

JEFFREY C. WEST,

Defendant.

On November 28, 2018, Defendant Jeffrey C. West pled guilty to Count 1 of an information alleging that he possessed heroin with intent to distribute. ECF Nos. 24-26, 28. Defendant was then sentenced to one hundred and eighty-eight months of incarceration on February 28, 2019, and judgment was entered on March 6, 2019. Defendant filed a notice of appeal on March 8, 2019. ECF No. 37.

On June 5, 2019, Defendant filed a motion to proceed on appeal *in forma pauperis*. ECF No. 40. The Court denied that motion on July 25, 2019 because Defendant had not submitted an affidavit explaining the issues he intends to present on appeal, but permitted Defendant to refile the motion with such an affidavit. ECF No. 41. On September 19, 2019, Defendant filed an affidavit of his attorney, James A. Napier, in support of Defendant's motion. ECF No. 42. The Court construes the affidavit as a renewed motion to proceed on appeal *in forma pauperis*, and for the following reasons, Defendant's renewed motion is DENIED without prejudice.

As explained in the Court's prior order, both 28 U.S.C. § 1915 and Federal Rule of Appellate Procedure 24 require Defendant to submit an affidavit stating the issues he intends to present on appeal. "This requirement has been strictly applied where it hinders the district court's

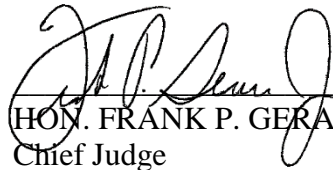
task of determining whether an appeal is taken in good faith.” *United States v. Scott*, No. 09-cr-331 HB, 2011 WL 3586434, at *1 (S.D.N.Y. Aug. 10, 2011) (internal quotation marks and citation omitted).

In his affidavit, Mr. Napier states that “any grounds for appeal not specifically waived at the time of plea” are at issue. ECF No. 42. Mr. Napier’s terse affidavit does not assist the Court in evaluating whether Defendant’s appeal is taken in good faith. Mr. Napier does not state the grounds that were not waived at the time of plea or which of those grounds Defendant intends to present on appeal. Defendant may refile his motion with such an affidavit.

For these reasons, Defendant’s renewed motion to proceed *in forma pauperis* on appeal (ECF No. 42) is DENIED without prejudice.

IT IS SO ORDERED.

Dated: November 20, 2019
Rochester, New York



HON. FRANK P. GERACI, JR.
Chief Judge
United States District Court